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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,503	08/15/2001	Toshiyuki Uehara		9607

7590 01/13/2005
Stevens Davis Miller & Mosher
1615 L Street NW Suite 850
Washington, DC 20036

EXAMINER

TIEU, BENNY QUOC

ART UNIT PAPER NUMBER

2642

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/913,503

Applicant(s)

UEHARA ET AL.

Examiner

Benny Q. Tieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/15/01 ; 5/30/02 and 12/30/02</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 9 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Tiedemann, Jr. et al. (U.S. Patent No. 6,317,587).

Regarding claims 1, 9 and 10, Tiedemann, Jr. et al. teach a base station apparatus (Fig. 2, 50) comprising:

control signal generation means for generating transmission power control signal for instructing transmission power to a communication terminal apparatus on a basis of a comparison result of a reception quality of a signal transmitted by the communication terminal apparatus with a desired reception quality (column 5, lines 25-34); and

transmission control means for controlling transmission processing to a transmission signal including the transmission power control signal generated by said control signal generation means on a basis of the transmission power control signal transmitted by the communication terminal apparatus (column 5, lines 35-49);

wherein said control signal generation means and said transmission control means respectively perform the generation of the transmission power control signal and the control of the transmission processing according to a factor influencing a quality of communication with the communication terminal apparatus (column 7, lines 1-12).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiedemann, Jr. et al. in view of Uebayashi et al. (U.S. Patent No. 6,310,868).

Regarding claims 2-8, Tiedemann, Jr. et al. fail to explicitly teach the base station apparatus wherein the factor is an appearance of a new communication terminal apparatus or an

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appearance of a new interference source and based upon the factor, the base station apparatus uses process to adjust the power control signal. However, Uebayashi et al. teach transmission request signals RQ1, RQ2, RQ3, . . . sent from the mobile stations and received through the common channel have large fluctuations in their received levels because they have large control error due to the open loop power transmission control. These transmission request signals, however, have smaller average received power of about $1/a$ of that of the message signals MSG1, MSG2, MSG3, . . . , and hence, interferences to the message signals are limited to a small amount. Since the message signals are transmitted in accordance with the power transmission control bits contained in the forward link signals sent from the base station, and the closed loop power transmission control is carried out afterward, the fluctuations in the received levels at the base station are limited to a small level (Fig. 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of detecting interference source disclosed by Uebayashi et al. into the base station apparatus taught by Tiedemann, Jr. et al. in order to enable the interference to be further reduced.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Takano (U.S. Patent No. 5,924,043) teaches a method and apparatus for controlling transmission power in a cellular mobile communication system. Chen (U.S. Patent No. 5,982,760) teaches a method and apparatus for power adaptation control in closed-loop communications. Brown et al. (U.S. Patent No. 6,259,682) teach closed loop transmitter with improved stability and accuracy over a wide range of power levels having means for maintaining

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constant loop gain. Lundby et al. (U.S. Patent No. 6,529,482) teach a method and apparatus for adjusting a signal-to-interference threshold in a closed loop power control communications system. Salonaho (U.S. Patent No. 6,678,531) teaches a method and apparatus for power control in a mobile telecommunication system. Lee et al. (U.S. Patent No. 6,690,944) teach a power control of a multi-subchannel mobile station in a mobile communication system. Holtzman et al. (U.S. Patent No. 6,788,685) teach a method and apparatus for controlling transmission power in a CDMA communication system.

7. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

OR Hand-delivered responses should be brought to:

220 South 20th Street

Crystal Plaza Two, Lobby, Room 1B03

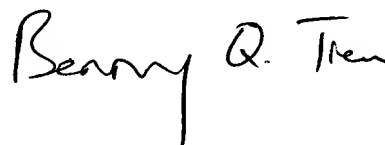
Arlington, VA 22202.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benny Q. Tieu whose telephone number is (703) 305-2360. The examiner can normally be reached on Monday-Friday: 6:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink that reads "Benny Q. Tieu". The signature is written in a cursive style with a large, stylized 'B' and a long vertical stroke at the end.

BENNY TIEU
PRIMARY EXAMINER

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January 10, 2005